

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WILLIAM R. COURSEY, : **CIVIL NO. 1:13-CV-0482**
Plaintiff :
v. :
UNITED STATES OF AMERICA, :
Defendant :
: (Judge Rambo)
: (Magistrate Judge Carlson)

MEMORANDUM

Before the court is a report filed by Magistrate Judge Carlson in which he recommends that Plaintiff's motion to specific performance of the settlement agreement be denied. Plaintiff is a federal prisoner who was housed in the United States Penitentiary at Canaan. As a result of alleged food poisoning at the penitentiary, inmates brought actions under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2401 *et seq.* and 28 U.S.C. § 2675 *et seq.* As a result of mediation, the claims were settled.

The basis for Plaintiff's request for specific performance is that he claims he has not received his payment under the settlement agreement. The defendant has responded that full payment has been made to Plaintiff by the United States Treasury pursuant to 31 U.S.C. § 3716, 31 C.F.R. § 2.85.5(a)(1), which authorizes the Treasury to collect delinquent non-tax debts to other federal agencies. Inmate-plaintiffs who are aggrieved by this offset are given a telephone number and an address to make inquiries concerning this offset. As in previous memoranda on

this same subject, this court has pointed out that such inquiries provide obstacles for prison inmates who do not get the information as to the debt and to whom it is owed.

It is this court's opinion that 31 C.F.R. § 285.5(g)(3) requires that when an offset has occurred, the payee shall be notified in writing, in part that an offset has occurred and (i) a description of the payment and amount of the offset taken, and (ii) the identity of the creditor agency requesting the offset. This has apparently not been done in the instant case.

This court will defer ruling on the report and recommendation and will remand to the magistrate judge to request that Defendant have the Treasury Department comply with 31 C.F.R. § 285.5(g)(3). An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: April 22, 2014.